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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,578	08/23/2001	Tetsuo Watanabe	Q65941	7895

7590

07/01/2003

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
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EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 07/01/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N . 09/934,578	Applicant(s) WATANABE ET AL.	
	Examiner Victor S Chang	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn. The Examiner apologizes for an inadvertent statement regarding the changes made to 35 U.S.C. 102(e), as pointed out correctly by the Applicants (Response, page 3), and the statement is withdrawn. However, it is believed that the analysis set forth in the previous Office Action is proper, and that the aforementioned error has caused no harm to the Applicants.

Response to Amendment

3. Newly amended claim 1 and claims 2-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujisawa et al. (US 6262330), substantially for the reasons set forth in section 3 of Paper No. 5, together with the following additional observations.

With respect to Applicants' Response arguing that Fujisawa teaches fatty acids which are esters of a monovalent fatty acid and a monohydric aliphatic alcohol, whereas the newly amended claim 1 recites fatty acid ester either one or more of a glycerol fatty acid ester, a sorbitan fatty acid ester, a polyglycerol fatty acid ester and a propylene glycol fatty acid ester (Response, page 4, second and third paragraph), the Examiner repeats that Fujisawa clearly teaches that dispersing agents such as higher fatty acids and fatty acid esters of a higher fatty acid can be used (column 6, lines 1-18), and nowhere in Fujisawa's teaching states any limitation to the use of esters of a

monovalent fatty acid and a monohydric aliphatic alcohol only, Applicants' argument to the contrary notwithstanding.

With respect to Applicants' contention that "the present invention provides unexpectedly superior results as compared with Fujisawa et al." (Response, page 4, 4th full paragraph), the Examiner notes that Applicants' argument is not persuasive since it assumes that an obviousness rejection, not an anticipation rejection, has been made. It should also be noted that Fujisawa teaches the invention as claimed, and that the properties of the instantly claimed invention are believed to be inherently disclosed.

4. Newly amended claim 1, claims 2-6 and 8 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fujisawa et al. (US 6262330), substantially for the reasons set forth in section 5 of Paper No. 5, together with the reasoning as set forth above, and the following additional observations.

With respect to Applicants' argument that "the present invention provides unexpectedly superior results as compared with Fujisawa et al." (Response, page 4, 4th full paragraph), the Examiner notes that Applicants fail to expressly point out the alleged unexpected results. Further, it is believed that Fujisawa teaches the invention as claimed, so as the properties of the instantly claimed invention are either inherently disclosed, or an obvious optimization to one skilled in the art, motivated by the desire to obtain a stretchable base material.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujisawa et al. (US 6262330) in view of admitted prior art, or in view of Yazaki et al. (US

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5326627), substantially for the reasons set forth in section 6 of Paper No. 5, together with the additional observations as set forth above.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC
June 30, 2003

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP ~~1300~~
1700

Daniel Zinker